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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,433	11/24/2003	Norio Tomiyoshi	FUJR 20.752	5112
26304	7590	09/20/2007		
KATTEN MUCHIN ROSENMAN LLP			EXAMINER	
575 MADISON AVENUE			BURD, KEVIN MICHAEL	
NEW YORK, NY 10022-2585			ART UNIT	PAPER NUMBER
			2611	
			MAIL DATE	DELIVERY MODE
			09/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/720,433

Applicant(s)

TOMIYOSHI ET AL.

Examiner

Kevin M. Burd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This office action, in response to the amendment filed 7/20/2007, is a final office action.

Response to Arguments

2. Applicant's arguments filed 7/20/2007 have been fully considered but they are not persuasive. Applicant has added a new limitation to the claims. The new limitation is addressed in the rejection stated below. Nishio discloses all of the claimed limitations of claims 1-4.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-4 are rejected under 35 U.S.C. 102(a) as being anticipated by Nishio et al (EP 1 233 536).

Regarding claim 1, Nishio discloses a communication device for performing wireless communication shown in figure 1. Nishio discloses a channel estimation section 1 that holds data and conducts channel estimation (paragraph 0013). Nishio further discloses a switching determining section 6. The switching determining section 6 receives and holds a signal for measurement. This portion is the measurement-period holding unit. The switching determining section 6 detects the number of spreading codes multiplexed in the received signal (paragraph 0013). The number is compared to

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a predetermined threshold value and a demodulation section is switched according to this comparison (paragraph 0013). This portion is the change recognition unit. Change is recognized since the demodulation can be switched. If the rake demodulation section 2 is selected prior to the received baseband signal being input to the switching determining section 6 and the switching determining section determines the spreading codes are greater than the threshold, the demodulation will be switched to the joint detection demodulation section 3. Therefore, a change in the number of spreading codes from a value less than the threshold to a number greater than the threshold is recognized. The measurement period will correspond to the received baseband signal and therefore the change in number of spreading codes. The change in demodulation methods will be made to maintain adequate reception quality (paragraph 0017). Paragraph 0045 also discloses the demodulation method switching is changed in accordance with errors in decoded bits, thus enabling a fixed reception quality to be constantly maintained. The specific demodulation sections will measure the spreading codes multiplexed in the received signal to properly demodulate the received signal. These sections are the delay-profile measurement unit. Additional information discussing the receiver of figure 1 is found in paragraphs 0016-0018.

Regarding claim 2, Nishio discloses the number of spreading codes is measured and the change recognition unit recognizes an increase or decrease in the number of spreading codes as stated above.

Regarding claims 3 and 4, the claimed invention requires a measurement-period holding unit operates in accordance with values indicating one or a combination of a

wireless condition or a service quality level. Nishio discloses the unit operates according to a wireless condition (number of spreading codes). Claims 3 and 4 claim limitations of the service quality level. These limitations are optional. MPEP 2111.04 states claim scope is not limited by claim language that suggests or makes optional but does not limit a claim to a particular structure.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

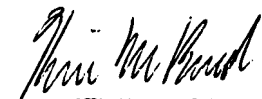
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-3008. The examiner can normally be reached on Monday - Friday 9 am - 5 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David C. Payne can be reached on (571) 272-3024. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin M. Burd
9/17/2007


KEVIN BURD
PRIMARY EXAMINER